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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,929	11/20/2001	David P. Kowal	19538-06497	2211

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EXAMINER
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GREENE, DANIEL L

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/989,929

Applicant(s)

KOWAL ET AL.

Examiner

Daniel L. Greene

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 3, 5-7 and 9-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

- a. Applicant's arguments, see REMARKS, filed 1/17/2006, with respect to 35 U.S.C 101, and 112 First and Second Paragraph, has been fully considered and are persuasive.
- b. In reference to the argument that the Examiner has not established that " it is known in the art when a customer checks in at an establishment, the customer value is specific to the property they are checking into". The Examiner refers the Applicant to Description of the Background Art in the Specification, page 3, paragraphs 1&2 that teach about when a customer checks in at an establishment, the customer value is specific to the property they are checking into.

### **Allowable Subject Matter**

- c. Claims 3, 5, 6, 7, 9 -15 are objected to as being dependent upon a rejected independent claim, but would be allowable if rewritten in independent form including all of the limitations of the independent and any intervening claims.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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**3. Claims 1, 2, 4, 16 - 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over PROGRAMMED FOR PERFECTION-(frequent guest programs)(Focus on Hotels special issue)- Ylinen, Jerry-Travel Weekly, v47, n38, p26(3)-April 30, 1988 [Programmed], Description of the Background Art, paragraphs 1 and 2 [DBA], and further in view of CASINO DATA SYSTEMS-Going Public the IPO Reporter, v17, n13, pN/A- March 29, 1993. [Casino]**

As per claims 1 and 17 - 18:

Programmed discloses:

receiving a request for a resource for the specific property for a customer; pg. 1, Para. 8. Programmed teaches about members of a frequent guest program checking into participating properties. pg. 1, Para. 8. and

using a computer to perform a valuing operation for the customer based at least on activities, stored in a database, of the customer at two or more properties, where the customer value is specific to the property. pg. 2, Para. 10.

Programmed teaches about different establishments, i.e. Radisson Hotels, Ramada Hotel Group, etc. having a mainframe that service participating properties that track number of stays, spending levels, length of stay and other pertinent details of the frequent traveler to match a specific product with a specific customer. Page 1. Para. 5.

Programmed discloses the claimed invention except for where the customer value is specific to the property. However, Programmed does disclose, “: “when

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members ... check in to participating properties, ..." DMA discloses where the customer value is specific to the property As per page 3, paragraphs 1 and 2.

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to where the customer value is specific to the property since it is known in the art that when a customer checks in at an establishment, the customer value is specific to the property they are checking into. (For example DBA page 3, Para. 1 and 2.)

Programmed further discloses:

using the computer to determine a cost of the requested resources in accordance with the customer valuation, the cost being stored in a memory of the computer. For example, Page. 2, paragraphs 10-11.

Further, Casino teaches about where the customer value is specific to the property by providing incentives to individual players based on their level, frequency and time of play at the casino. pg. 1, Para. 1.

As per claim 2:

Programmed discloses the claimed invention except for wherein the customer activities are located at properties different from the property for which the customer is being valued.

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to wherein the customer activities are located at properties different from the property for which the customer is being valued since it is known in

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the art that the frequent flyer and the frequent guest programs are run from a central mainframe to track the activities of customers throughout the industries/business points of service.

As per claim 4:

Programmed further discloses:

determining whether the customer should be incentivized. pg. 2, Para. 9.

As per claim 16:

Programmed further discloses:

wherein valuing the customer uses data based on the customer's previous trips to hotels only. pg. 1, Para. 9.

As per claims 19 and 20:

Programmed does not expressly show wherein the customer's activities comprise gambling activities. However, Programmed does teach about tracking the customer's activities such as number of stays, spending level, length of stay and other pertinent details. Page 1, Paragraph 9. Therefore, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The determining of the customer value for a specific property would be performed the same regardless of the activity used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re*

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*Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize any type of pertinent details for determining of the customer value for a specific property because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 571-272-6707. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel L. Greene  
Examiner  
Art Unit 3621

2/23/2006

*Daniel L. Greene*  
PRIMARY EXAMINER